IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1070 of 2001
WITH
SPECIAL CIVIL APPLICATION NO 1071 of 2001
WITH
SPECIAL CIVIL APPLICATION NO 1072 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HARESHBHAI DESHABHAI BAGDA

Versus

DHORAJI NAGARPALIKA

Appearance:

MR MITUL K SHELAT for Petitioner
MR PREMAL R JOSHI for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 11/06/2001

ORAL COMMON JUDGEMENT

Rule. Service of rule waived by Mr. Premal R. Joshi, learned advocate for the respondents.

2. The present petitions are filed for the relief that the respondent - Dhoraji Nagar Palika be restrained form terminating the services of the petitioners. The learned advocate for the respondents says that affidavits-in-reply have been filed in the Computer Centre, but the original affidavits are not available on the records of the petitions. Hence the learned advocate has supplied additional copies of the affidavits, which are taken on record. In the said affidavits common case is that one Special Civil Application No. 8138 of 2000 has been preferred before this Court wherein it is averred that the Municipality has not made appointments in accordance with law. It is also stated in the said affidavits that while issuing notice on the said Special Civil Application No. 8138 of 2000 this Court directed not to appoint any person except in accordance with law. In the present case a copy of the settlement is produced on record which is dated 6/12/1999, which is prior to the order passed by this Court in the aforesaid petition. It is interesting to note that affidavit proceeds further to state that, in the present case the petitioner was appointed in compliance of the settlement on the basis of which the award dated 13/6/2000 was passed, and the appointments were made in accordance with law.

3. The affidavits proceed to state, "that as it is averred in Special Civil Application No. 8138 of 2000 that the Municipality has appointed the petitioners not in accordance with law and, therefore, with a view to avoid further complications only, the Municipality has cancelled the appointment orders of the petitioners". The affidavit in terms states that as such the appointments of the petitioners were in pursuance of the award and in accordance with law, but merely with a view to avoid the further complications the appointment orders were cancelled.

4. It is clear from the contents of the affidavits that the action of the Municipality of cancelling order of appointments of the petitioners is in absence of any order passed by this Court in the aforesaid Special Civil Application No. 8138/2000. The action of the Municipality of terminating the services of the petitioners is without any basis for the same. Hence these petitions are required to be allowed and the same are accordingly allowed. The respondent - Municipality is directed to reinstate the petitioners forthwith. The respondent Municipality is further restrained from

terminating the services of the petitioners except in accordance with law. It goes without saying that as and when any order is passed by this Court in Special Civil Application No. 8138/2000 after hearing all the parties, it will be for the Municipality to act according to law. Rule is made absolute accordingly. No order as to costs.

[Ravi R. Tripathi, J.]

* Pansala.